



PATENT
Customer No. 22,852
Attorney Docket No. 02481.1790-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Horst ULBRICHT et al.)	Group Art Unit: 1615
)	
Application No.: 10/757,433)	Examiner: B. Fubara
)	
Filed: January 15, 2004)	
)	
For: COMPOSITION FOR REMOVING)	Confirmation No.: 4111
ABNORMAL KERATINOUS)	
MATERIAL)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

STATEMENT OF SUBSTANCE OF INTERVIEW

Claims 1-6 and 8-44 are pending in this application. Applicants express their appreciation to the Examiner for meeting with the undersigned in a personal interview on January 11, 2005. As indicated in the Interview Summary, topics of discussion included the pending art rejections and the claims of record. This Statement is being filed to comply with the requirement set forth in the Interview Summary that a Statement of the Substance of the Interview be filed within one month of the interview date. Because this Summary is presented at the request of the Examiner, the filing of this paper should not reduce any patent term adjustment that may become available for this application.

During the personal interview, the Examiner was informed of the claim amendments presented in the Amendment filed on December 10, 2004. Claims 1, 17 and 31 were amended to recite certain film-formers present in original (and now canceled) claim 7. As a

result, those claims should be novel and non-obvious in view of U.S. Patent No. 5,346,692 to Wohlrab et al.

The independent claims had also been amended to recite pharmaceutical preparations in the form of a solution. Those skilled in the art recognize that a "solution" in this context is a homogenous mixture of the ingredients of the preparation. See Grant & Hackh's Chemical Dictionary, 5th Ed., McGraw-Hill, Inc. at pages 541-542 (1987) (copy previously submitted). Smith does not disclose such a preparation. Instead, the moisturizing lotion of Smith is composed of an oil-in-water emulsion. Smith at col. 1, lines 48-52, and col. 2, lines 11-14. Those skilled in the art recognize that an "emulsion" is a microscopically heterogeneous mixture of 2 normally immiscible liquid phases, in which one liquid forms minute droplets suspended in the other liquid. See Grant & Hackh's Chemical Dictionary at page 212.

The specific and deliberate disclosure of moisturizing lotions in Smith as oil-in-water emulsions would not have motivated one skilled in the art to make and use a preparation in the form of a solution as now claimed. As pointed out during the interview, the Smith lotion is disclosed as comprising one or more emollients. See col. 2, lines 18-19 ("[t]he lotion will incorporate an effective amount of one or more emollients"). Emollients are defined at col. 2, lines 21-25 as "any of the inorganic or organic oils and/or waxes that generally function to lubricate the skin surface and to prevent evaporative loss of skin moisture supplied by underlying tissues." The emollients by definition therefore contribute to the oil phase of the oil-in-water emulsion. See col. 7, lines 14-18 "[t]he lotions of the present invention are generally prepared by melting together the emollients and a part of the preservatives with stirring or shaking at temperatures in the range of about 75°-85° C. in order to prepare the oil phase of the lotion." See also Example 1 at col. 8, lines 44-50, and claims 1 and 14

detailing an oil phase comprising emollient. There was simply no motivation in the art to remove the oil phase of the Smith emulsion to prepare a solution because, among other reasons, such a modification would do away with the oil or wax emollient required in the Smith composition. For at least this reason, applicants respectfully requested that the Examiner withdraw this rejection.


The Examiner and the undersigned also discussed the possibility of filing a Terminal Disclaimer to overcome the double patenting rejection. Lastly, the undersigned brought to the attention of the Examiner that certain claims of the application were copied from US 2003/0012749 A1, a copy of which has been made of record in an Information Disclosure Statement. Those claims were added in the Preliminary Amendment filed on January 15, 2004.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: January 13, 2005

By: 
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